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UNCLAS SECTION 01 OF 02 NAIROBI 000786

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SUBJECT: KENYA'S PARLIAMENT AMENDS CONSTITUTION AND ADOPTS
POWER- SHARING AGREEMENT

REF: A. NAIROBI 693

[1](#)B. NAIROBI 687

[1](#)C. NAIROBI 682

[1](#)D. NAIROBI 601 AND OTHERS

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SUMMARY

[1](#)1. Kenya's grand coalition government is now a legal reality. On March 18, Kenya's parliament adopted the Constitutional Amendment Bill and the National Accord and Reconciliation Bill (reftels a and c), which create a prime minister position and further secure the power-sharing agreement between President Kibaki and Raila Odinga. The atmosphere in parliament during debate of these bills was once again collegial. Remarks made by the leaders of both the Party of National Unity (PNU) and Orange Democratic Movement (ODM) continue to foster a spirit of unity. The next step is agreeing to the distribution of cabinet posts, which most observers anticipate will happen in the near future. End Summary.

UNITY OF PURPOSE ON THE FLOOR...

[1](#)2. The session began with a precedent-setting move. President Kibaki entered the hall and sat in the seat reserved for the leader of Government business, instead of that reserved for the Head of State. The session began with debate on the constitutional Amendment Bill. Kibaki again broke with precedent, speaking on the bill from the floor as an MP, not as Head of State. Kibaki called for unity to rebuild the nation. These comments were echoed by ODM leader (and presumptive PM) Raila Odinga and by other MPs taking the floor. Even Minister of Justice and Constitutional Affairs Martha Karua, considered the government's leading opponent to the power-sharing agreement, spoke of the political necessity to implement the deal to move the country forward. Both measures passed the house unanimously and without amendment. President Kibaki immediately assented to both, giving them force of law.

[1](#)3. The Speaker broke with tradition and permitted live TV broadcast of the session. (Note: Traditionally, only the

swearing-in of MPs and the State Opening are broadcast live. In a sign that Parliament may become a more transparent institution, Speaker Marende has pledged to permit live radio broadcasts of Parliament sessions within six months, with live television broadcasts to follow by the end of 2008. End Note.) Kibaki and Raila both called for Kenya to deal with ethnicity in a forthright manner, while emphasizing the right of Kenyans to live anywhere in the country. Both agreed on the need for a new constitution. Kibaki sounded optimistic that a new Constitution could be adopted within 12 months, as called for in the power sharing agreement.

... BUT IMPORTANT ISSUES REMAIN

¶4. Passage of the legislation is important, but the parties must still negotiate several critical issues. For example, the mandate of the PM is still undefined, as is the PM's position in relation to the VP (ODM insists that the PM should report directly to the President, while many in PNU want the MP to report to the VP). Both sides also need to name their respective Deputy Prime Minister. ODM has apparently settled on Musalia Mudavadi as its Deputy PM. However, the PNU coalition has yet to settle the matter, with Minister of Local Governance Uhuru Kenyatta, Martha Karua, and Minister of Finance Amos Kimunya among the most serious contenders. In addition, the parties must agree on the number of ministries (expected to be expanded from 32 to approximately 38). Negotiations on the allocation of ministries among PNU (and its Orange Democratic Movement-Kenya partner) and ODM are ongoing. In nominating ministers, both Kibaki and Raila must balance competing regional constituencies within their coalitions. Already Rift Valley MPs have demanded that they be rewarded for their steadfast support of ODM. Similar demands are being placed

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on PNU.
RANNEBERGER